

5/14/2009 Davies, Malcolm

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LeMOND CYCLING, INC.,

Plaintiff,

vs.

Case No. 08-1010

TREK BICYCLE CORPORATION,

Defendant/Third-Party

Plaintiff,

vs.

GREG LeMOND,

Third-Party Defendant.

Video Deposition of MALCOLM DAVIES

Thursday, May 14th, 2009

9:07 a.m.

at

GASS WEBER MULLINS LLC

309 North Water Street

Milwaukee, Wisconsin

Reported by Kealoha A. Schupp, RPR

EXHIBIT
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1 Video deposition of MALCOLM DAVIES, a
2 witness in the above-entitled action, taken at the
3 instance of the Plaintiff/Third-Party Defendant,
4 pursuant to the Federal Rules of Civil Procedure,
5 pursuant to notice, before Kealoha A. Schupp, RPR and
6 Notary Public, State of Wisconsin, at GASS WEBER
7 MULLINS LLC, 309 North Water Street, Milwaukee,
8 Wisconsin, on the 14th day of May, 2009, commencing
9 at 9:07 a.m. and concluding at 11:09 a.m.

10 A P P E A R A N C E S:

11 ROBINS, KAPLAN, MILLER & CIRESI, LLP, by

Ms. Denise S. Rahne

12 Ms. Jennifer M. Robbins

2800 LaSalle Plaza

13 800 LaSalle Avenue

Minneapolis, Minnesota 55402

14 Appeared on behalf of Plaintiff/Third-Party
Defendant.

15 GASS WEBER MULLINS LLC, by

16 Mr. Ralph Weber

309 North Water Street

17 Milwaukee, Wisconsin 53202

Appeared on behalf of Defendant/Third-Party
18 Plaintiff.

19 Also present: Mr. Owen May -- Videographer

Mr. Bob Burns -- Trek

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1 those ways, as you sit here today, that you feel like
2 Trek promotes and markets its products
3 internationally?

4 A Well, we would -- it would really depend on the
5 market, what the market conditions were and what
6 Trek's position in the market was how we went about
7 marketing ourselves or our brands.

8 Q Okay. I'm just -- right now what I'm just interested
9 in doing is kind of coming up with a list of the
10 different things that Trek has done or has considered
11 doing in sort of a general -- like categories,
12 general categories.

13 A What do you mean, though? Are you talking about
14 marketing activities, or are you talking about the
15 way we approach the dealer network?

16 Q Well, let's take the dealer network first.

17 A Okay.

18 Q Is the dealer network a general -- would you consider
19 it a general category of marketing and promotional
20 efforts, things done with the dealer network?

21 A Yes.

22 Q Okay. What kinds of things has -- does Trek do
23 generally with its dealer network to promote and
24 market Trek products internationally?

25 A The main thing we would do is product introduction

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1 launch, so shows, industry shows, our own dealer
2 shows, events where we would show them the product.
3 That would be the main activity.

4 Q And does Trek do that in -- in a particular location,
5 or is it done sort of broadly across different
6 countries?

7 A It depends on the country. In some cases it would be
8 done in -- at an industry show, at others it would be
9 done at what we call a house show where it's just our
10 products.

11 Q What industry shows has Trek, during the time that
12 you've worked for Trek, used to promote Trek
13 products?

14 A Euro-Bike is the largest probably, but also Paris,
15 London, Milan. Those are the ones that I can think
16 of immediately.

17 Q What are house shows?

18 A House shows are where we would set up a location with
19 the bikes that we are selling for that new season and
20 invite our dealers in to come and look at them,
21 discuss business, sell product.

22 Q In what countries have you held house shows?

23 A To be honest, I think almost all of them. Certainly
24 all subsidiary markets. I would struggle to speak
25 specifically for three -- third-party distributor

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1 markets.

2 Q Do product introductions or introductions of new
3 lines always occur at an industry show or a house
4 show or is there another way that that's
5 accomplished?

6 A Mostly the -- the industry show or the house show.
7 Occasionally we might introduce a -- an individual
8 product mid-season, and that would be done dealer by
9 dealer.

10 Q Are there any other more specific efforts that Trek
11 takes with its distribution channels to promote Trek
12 bikes?

13 A That -- that's the real method that we would use to
14 establish a dealer network. And that's the most
15 important thing that we're trying to do here is
16 actually have a channel for our products. And that's
17 the principal activity.

18 Q Okay. As to industry shows you noted Euro-Bike,
19 Paris, London and Milan.

20 Have those -- has Trek made an
21 appearance at those shows annually?

22 A Not 100 percent annually. Some of them don't run
23 every year. Euro-Bike is pretty consistently
24 annually since I've been involved in it at Trek.

25 Q Specific to LeMond-branded products, when has the --

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1 when have LeMond-branded products been on display at
2 Euro-Bike?

3 A Pretty much every year that we've carried the line, I
4 believe. Certainly since 1998. I think every year,
5 maybe with one exception.

6 Q Why do you say with one exception?

7 A I think there was one year where we didn't show them,
8 but I'm not 100 percent certain.

9 Q Do you know what the -- and understanding that you're
10 not sure, do you know what year that might have been?

11 A I'm sorry, I don't recall.

12 Q Approximately if it even occurred?

13 A I -- honestly, I don't recall. I recall a
14 conversation that there was one year.

15 Q Who was the conversation with?

16 A With counsel.

17 Q Has -- have LeMond-branded products been at an
18 industry show in Paris?

19 A No, they have not.

20 Q What about London?

21 A I can't recall for certain.

22 Q What about Milan?

23 A I don't know for certain.

24 Q What about house shows, what recall do you have of
25 countries where there have been house shows where

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1 training our salespeople on the technology that we
2 were offering. We did all these things. We put it
3 all on -- in front of the dealers, and then this
4 article comes out in Tour magazine with Greg making a
5 statement that basically undermines the relationship
6 between Trek and LeMond.

7 And from our perspective, we saw that
8 as very damaging, because what happens in that
9 situation is the dealers get this feeling of
10 uncertainty. They -- they don't like uncertainty,
11 dealers. They like things to be very simple and
12 straightforward. They are straightforward people.
13 They buy bikes. They sell bikes. They get behind
14 the brand. They don't want to have something going
15 on that they don't know what's going to come down the
16 road six months from now.

17 And my salespeople were very
18 frustrated that they spent time talking about this
19 issue instead of selling the bikes. Harald Schmiedel
20 was extremely frustrated having spent, you know, days
21 in front of dealers selling Trek bikes, LeMond bikes,
22 Fischer bikes to have part of his time, which is
23 fairly short with each dealer, highjacked by a
24 conversation about what Greg had said in Tour
25 magazine. And from my perspective, it was very

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1 certainly not to John Burke calling someone an idiot
2 commercially. It's not my -- it's not the way I
3 would conduct myself. I mean, you know, I was very
4 frustrated, which is why I sent this note. I -- I
5 don't, to be honest with you, recall ever sending
6 something as strongly worded as this, and it's a
7 measure of the frustration.

8 Q Okay. You've traveled to a number of industry shows
9 and -- throughout Europe over your time; is that
10 right?

11 A Yes.

12 Q From time to time do you see other tour -- former
13 Tour de France winners and other major cyclists
14 appear at these shows?

15 A Yeah, for sure.

16 Q And are there some in particular that you see quite
17 regularly supporting brands?

18 A You see cyclists all the time. I guess one of the
19 main ones you would say I've seen a lot in Europe is
20 Eddie Merckx. De Rosa would be another guy,
21 Christiano de Rosa. He was at shows often.

22 Q How often over the years, over the last 20 years did
23 Mr. LeMond come to Euro-Bike?

24 A To my knowledge, not at all.

25 MR. WEBER: That's all I have. Thank you.